

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Friday, November 3, 2006 in Conference Room B111 at Kietzke Plaza, 4600 Kietzke Lane, Reno, Nevada 89502.

The following Board members were present for the roll call at 1:05 PM:

Stephanie Youngblood, DC, President
Ian Yamane, DC
Richard McCann, J.D., Consumer Member
Donald H. Miner, DC
Curtis Potts, DC, Member

Margaret Colucci, DC, Vice President, arrived at 1:20 PM.

Agenda Item 1 APPROVAL OF AGENDA

Dr. Miner moved for approval of the agenda with the caveat that the consent items be pulled for discussion for the benefit of the Board's new Consumer Member. Dr. Yamane seconded the motion and it passed unanimously.

Agenda Item 2 PUBLIC INTEREST COMMENTS (No Action)

There was no public comment.

Agenda Item 3 APPROVAL OF PREVIOUS MINUTES: September 8 & 9, 2006

Dr. Miner moved for approval of the September 8 & 9, 2006 meeting minutes. Motion was seconded by Dr. Yamane and passed unanimously.

Agenda Item 4 DISCUSSION/APPROVAL OF BOARD FINANCIAL REPORTS:

- A. Bank balance as of November 1, 2006**
- B. Income/Expense Report: July 1, 2006 through October 31, 2006**
- C. Accounts Receivable as of November 1, 2006**
- E. Accounts Payable as of November 1, 2006**
- F. Extraordinary Items/Items of Concern**

Dr. Yamane moved for approval of the Board financial reports. Dr. Youngblood seconded the motion and it passed unanimously.

The following Consent Calendar Item Nos. 5 through 8 were addressed individually:

Agenda Item 5 Approve Executive Director reports:

- A Status of Complaints Received**
- B. Status of Current Probations**
- C. Legal/Investigatory:**
 - 1. Costs assessed since last report**
 - 2. Costs assessed year-to-date**
 - 3. Costs collected since last report**
 - 4. Costs collected year-to-date**

At Dr. Miner's request, the Executive Director, Cindy Wade, summarized the status of the pending complaints, current probations and legal and investigatory costs. Dr. Miner moved for approval of the Executive Director reports. Dr. Colucci seconded and the motion passed unanimously.

Agenda Item 6 Approve Application for Certification of Chiropractor's Assistant of Dawn Thomas.

The background of Dawn Thomas has cleared with the exception of the results from the FBI, which has rejected her fingerprints for the third time. Dr. Miner moved for approval of the Application for Certification of Chiropractor's Assistant of Dawn Thomas. Dr. Colucci seconded the motion and it passed unanimously.

Agenda Item 7 Approve Application for Activation of License to Practice Chiropractic of Nancy A. Swenson Goralsky, DC. License No. B638.

Dr. Swenson has met all of the requirements for restoration of her license under NRS 634.121. Dr. Yamane moved for approval of the Application for Activation of License to Practice Chiropractic of Nancy A. Swenson Goralsky, DC, License No. B638, upon receipt of her payment of the \$300 renewal fee. Dr. Potts seconded the motion and it passed unanimously.

Agenda Item 8 Appoint Dr. Jeffrey D. Andrews as Compliance Monitor for probation of Dr. Pasquale Laurito.

Dr. Jeffrey Andrews was previously approved by the Board to be a Compliance Monitor. Dr. Miner moved that Dr. Jeffrey D. Andrews be appointed Compliance Monitor for the probation of Dr. Pasquale Laurito under the established compliance monitor parameters previously approved. Dr. Yamane seconded and the motion passed unanimously.

Agenda Item 14 Discussion/possible action regarding proposed program for certification/registration of Massage Therapists working in chiropractic offices.

This agenda item was addressed out of order to accommodate Massage Board Executive Director, Lisa Cooper, who was present to address this matter. Cindy Wade proposed a procedure for the Board's approval that would allow the CPBN to reciprocate with the Massage Therapy Board with respect to their records of massage school and National Board transcripts and background checks to eliminate the redundancy of providing the same material to both boards. Ms. Cooper stated that their regulations will be finalized for formal adoption in the spring of 2007. Dr. Miner moved that Chiropractor's Assistant for Massage applicants continue to be processed as usual until the Massage Board is able to assume the disciplinary responsibility. The motion was seconded by Dr. Yamane and passed unanimously.

Agenda Item 9 Administrative hearing or discussion/possible action on proposed Settlement Agreement pursuant to Case No. 06-6, Bryan Hansen, DC, License No. B1030.

Dr. Miner moved to go into closed session pursuant to NRS 241.033. Dr. Youngblood seconded and the motion passed unanimously. All those present who were not parties to this matter, and witnesses, left the meeting.

The meeting room was reopened and Dr. Miner moved that the meeting be reopened. Dr. Youngblood seconded and the motion passed unanimously.

Dr. Miner stated that Dr. Hansen was very forthright in his explanation of his failure to comply with the regulations governing massage therapists working in chiropractic offices. Dr. Miner pointed out that Dr. Hansen did not participate financially and it appears that he did not intentionally violate the chiropractic laws, therefore, he is not in support of the proposed Agreed Settlement. Dr. Miner moved to dismiss the complaint against Dr. Hansen. Dr. Yamane seconded the motion. After discussion, Dr. Miner withdrew his motion and Dr. Yamane withdrew his second.

Dr. Miner moved that the complaint be dismissed with a letter of admonition to be sent to Dr. Hansen and with the understanding that Dr. Hansen will reimburse the Board's costs, attend twelve hours of continuing education on the subject of ethics and pass the CPBN law test. Dr. Yamane seconded the motion and it passed unanimously.

The following agenda item was taken out of order to accommodate Dr. Tony Jensen, who was present to address his concerns with the Board:

Agenda Item 21 Discussion/possible action with respect to request from NCA President Tony Jensen regarding:

A. Acupuncture - Yes/No: Add to curriculum for chiropractors in Nevada

Dr. Jensen stated that other states allow chiropractors to perform acupuncture and asked if the CPBN is willing to work with the association to get this included in the chiropractic statute. The Board informed Dr. Jensen that the Board takes no position on this issue but should the association be successful in getting it through the Legislature the CPBN will willingly regulate it.

B. School and athletic exams

Dr. Yamane explained that the Board is in contact with the attorney for the NIAA with regard to Nevada chiropractors being allowed to perform school sports physicals. Dr. Yamane suggested that it would be helpful if the association were to write a letter to the NIAA in support of the Board's position.

C. Political action for 2007

CPBN's lobbyist, Susan Fisher, reviewed the particulars of the two legislative bills that the Board has submitted.

D. Discuss policies, procedures, investigation and follow-up after a complaint is submitted to Board by a chiropractor.

The Board's position with respect to complaint handling was discussed. The Board suggested that licensees would be much better informed about the Board's activities if they would attend Board meetings.

Agenda Item 10 Discussion/possible action regarding possible re-hearing of the matter of Peter Darvas, DC.

Deputy AG David Newton has been informed by Dr. Darvas's attorney that Dr. Darvas had not filed bankruptcy at the time of the Board's hearing in June, 2006, and that Dr. Darvas has retained an attorney and may file bankruptcy by the end of this year. Dr. Potts moved to re-hear the Darvas matter. Dr. Youngblood seconded and the motion passed unanimously. Mr. Newton will inform the Deputy AG for Northern Nevada that the Board has decided to reconsider the case against Dr. Darvas. A new complaint may be filed on the issues that were not addressed at the first hearing.

Agenda Item 11 Discussion/possible action regarding approval of Application for Certification of Chiropractor's Assistant of DC applicant Michael R. Taylor.

Cindy Wade explained that Dr. Michael Taylor will be taking the Law Test on November 8. The earliest he can attain licensure is December 8 and he has applied to be approved to perform CA work in the interim, however, there is a complaint pending against him which must be addressed by the Board before he may be granted a license. Dr. Miner moved to deny Dr. Taylor's Application for Certification of Chiropractor's Assistant. Dr. Colucci seconded and the motion passed unanimously.

Agenda Item 12 Discussion/possible action regarding request from Daniel Nightingale, DC, for extension of time in which to pass National Board Ethics and Boundaries Examination.

Dr. Yamane moved to deny Dr. Nightingale's request for an extension of time in which to pass the National Board Ethics and Boundaries Examination. The motion was seconded by Dr. Miner and passed unanimously.

Agenda Item 13 Status report/discussion/possible action regarding anonymous profiles of possible disciplinary actions. Board action will be limited to either dismissing the matter if the Board determines it has no jurisdiction over the subject or providing direction to pursue the matter further.**A. Complaint 00-15 (Youngblood)**

Dr. Youngblood explained that this complaint was filed because of a billing dispute and is a "he said/she said" situation. She stated that there is not enough evidence to move forward and recommended dismissal. Dr. Miner so moved. Dr. Yamane seconded and the motion passed unanimously.

B. Complaint 00-17 (Youngblood)

Dr. Youngblood stated that Complaint 00-17 was a personal injury case where the attorney failed to pay the chiropractor. The attorney was disciplined by the State Bar. The attorney caused the problem, not the chiropractor. Dr. Miner made a motion to dismiss the complaint. Dr. Yamane seconded the motion and it passed unanimously.

C. Complaint 01-1 (Youngblood)

This complaint was a request for records that were eventually provided. Dr. Youngblood moved to dismiss the complaint. Dr. Yamane seconded and the motion passed unanimously.

D. Complaint 02-25 (Youngblood)

Dr. Youngblood stated that the complainant has withdrawn Complaint 02-25. Dr. Miner moved for dismissal, Dr. Yamane seconded and the motion passed unanimously.

E. Complaint 06-16 (Colucci)

Dr. Colucci explained that Complaint 06-16 was filed by a patient who claimed the doctor told him he must perform a follow-up examination if the patient had not been in for three months because it was “required by state regulation.” The doctor said he told the patient that it was his policy to examine any patient who had not been seen in over three months. Dr. Miner moved to dismiss the complaint with a letter of instruction to the doctor that there is no such state regulation. Dr. Youngblood seconded the motion and it passed unanimously.

Agenda Item 15 Discussion/possible action with respect to billing, coding, standards of care presentation by Michael Miscoe to Board on July 21, 2006.

Due to concerns about some of the representations made by Mr. Miscoe at his presentation to the Board at its July 21, 2006 meeting, Dr. Youngblood recommended that he not be approved as a presenter at the NCA seminar on December 16, 2006. Following discussion, Dr. Youngblood moved that Mr. Miscoe not be approved as a provider of continuing education as to billing, coding and standards of care until the Board addresses this matter at its next meeting in December. Dr. Miner seconded the motion. The motion passed with all in favor except Dr. Curtis Potts, who recused because he has been in recent contact with Mr. Miscoe.

Agenda Item 16 Discussion/possible action regarding questions posed by Michael Miscoe regarding compliance monitoring parameters.

At Deputy AG David Newton’s recommendation, Dr. Yamane moved to table the matter of Mr. Miscoe’s questions regarding compliance monitoring parameters until the December meeting when the Board will decide whether the recently enacted guidelines for compliance monitors applies to the matter Mr. Miscoe is currently working on. Dr. Miner seconded the motion and it passed unanimously.

Agenda Item 17 Discussion/possible action regarding exclusive use by a chiropractor of one legal counsel in personal injury cases.

It was agreed that there is no violation if a chiropractor chooses to limit his practice by working exclusively with one attorney in personal injury cases as the patient is free to leave his care. Dr. Miner moved that a letter of explanation be sent to the person at the insurance company who brought this issue to the Board’s attention. Dr. Youngblood seconded the motion and it passed unanimously.

Agenda Item 18 Discussion/possible action pursuant to performance evaluation of CPBN Executive Director:**A. Evaluation results.**

Dr. Yamane informed Cindy Wade that all of her evaluations were rated very high.

B. Award of COL/merit increase(s).

Dr. Yamane moved to award to Cindy Wade a 2-1/2% cost-of-living increase plus a 2-1/2% merit increase, a total of 5%. Dr. Miner seconded and the motion passed unanimously. Cindy expressed her thanks to the Board.

Agenda Item 19 Discussion/possible action regarding request that Executive Director be allowed to change her work schedule from five 8-hour days to 4 ten-hour days per week during winter months.

With respect to Cindy Wade's request to change her work schedule, Dr. Miner moved that there be no action but rather, the Executive Director should be allowed to schedule her own hours. Dr. Yamane seconded the motion and it passed unanimously.

NON-ACTION ITEMS:

Agenda Item 20 Report from Elizabeth Foley, Esq., on time and expense projection for legal assistance with backlog of complaints/investigations/disciplinary actions.

Dr. Youngblood reported that she has received reports from attorney Liz Foley on her progress with the pending complaints that have been assigned to her on which she has spent approximately 20 hours to date. The Board wishes to receive a report from her for the next meeting with her projections on the number of hours, costs and completion dates for her cases.

Agenda Item 22 Report/discussion regarding October 13-14, 2006 FCLB District IV Regional Meeting in Salt Lake City.

Dr. Don Miner and Cindy Wade reported verbally on the issues that were addressed at the October 13-14 FCLB District IV Regional Meeting. As suggested by Dr. Miner, the 2009 meeting may be held at Lake Tahoe.

Agenda Item 23 Committee Reports.

CPBN lobbyist Susan Fisher reviewed the legislative bills that may affect chiropractic.

Test Committee Chair Dr. Maggie Colucci reported that the next CA tests will be administered on February 2, 2007 and the DC tests will be administered on February 14, 2007.

There were no other committee reports.

Agenda Item 24 Correspondence Report.

Attorney John Hunt has submitted a letter in providing legal counsel to assist the Board in the prosecution of pending disciplinary actions. Ms. Wade was requested to respond with an invitation to attend the January, 2007 Board meeting.

James W. Campbell, DC, has requested that the Board consider changing the chiropractic laws to allow Chiropractic Physicians certified in electrodiagnostics to perform needle EMG studies for diagnostic purposes. Ms. Wade was instructed to respond that he should refer this issue to the professional association and/or submit a proposed bill draft to his legislator.

Dr. Yamane has responded to Dr. Jeffrey Willes who inquired about the progress with respect to the NIAA allowing chiropractors to perform school sports physicals.

Cindy distributed copies of a Scope of Practice Questionnaire from Western States Chiropractic College which will be completed by each doctor on the Board and returned to her. She will compile the answers to the survey and present them for completion at the Board's next meeting.

Agenda Item 25 Board Member Comments.

Dr. Miner requested that all future minutes include the individual agenda item nomenclature for each item on the agenda.

Agenda Item 26 Public Comment.

Deputy AG David Newton requested input from the doctors on the board to assist him with a complaint that has been filed with the Governor. This matter will appear on the next meeting agenda.

Agenda Item 27 Adjournment.

The meeting adjourned at 6:40 PM.

Approved: December 7, 2006

Ian K. Yamane, DC, Secretary